

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

<b>RICARDO CARMICHAELL,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>No. 4:05-CV-1233-JCH</b>
	)	
<b>STATE OF MISSOURI,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER AND MEMORANDUM**

This matter is before the Court upon the application of plaintiff Ricardo Carmichaell for leave to commence this action without payment of the required filing fee. *See* 28 U.S.C. § 1915(a). Upon consideration of the financial information provided with the application, the Court finds that plaintiff is financially unable to pay any portion of the filing fee. Therefore, plaintiff will be granted leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a).

**28 U.S.C. § 1915(e)**

Pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court may dismiss a complaint filed in forma pauperis at any time if the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief against a defendant who is immune from such relief. An action is frivolous if "it lacks an arguable basis either in law or in fact." *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). An action fails to state a claim upon which relief may be granted if it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Conley v. Gibson*, 355 U.S. 41, 45-46 (1957); *Jackson Sawmill Co. v. United States*, 580 F.2d 302, 306 (8th Cir. 1978).

In reviewing a pro se complaint under § 1915(e)(2)(B), the Court must give the

complaint the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). The Court must also weigh all factual allegations in favor of the plaintiff, unless the facts alleged are clearly baseless. *Denton v. Hernandez*, 504 U.S. 25, 31-32 (1992); *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974), *overruled on other grounds*, *Davis v. Scherer*, 468 U.S. 183 (1984).

### **The complaint<sup>1</sup>**

Plaintiff seeks one billion dollars in monetary relief, pursuant to 42 U.S.C. § 1983, for, *inter alia*, attempted murder, altering his DNA, forgery, perjury and theft. Plaintiff alleges that, for the past three years, he has been under attack with an unknown electrical transmitter. Plaintiff alleges that DNA is altering his body and that truth serum and a lie detector are required to prove the truth of these allegations. Plaintiff asserts that the public is at risk of having its DNA altered by acts of terrorism and treason.

### **Discussion**

Plaintiff's complaint fails to state a claim because his allegations are "clearly baseless" under the standard set forth in *Neitzke* and *Denton*. The category of "clearly baseless" encompasses allegations that are "fanciful," "fantastic" and "delusional." *Denton*, 504 U.S. at 32-33, 112 S.Ct. at 1733 (quoting *Neitzke*, 490 U. S. at 325, 327-28, 109 S.Ct. at 1831, 1833). Plaintiff's allegations painfully strain credulity. Nothing set forth by plaintiff lends credence to his complaint. Accordingly,

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<sup>1</sup>Plaintiff moves to amend his complaint with further allegations of mind and body control and terrorist acts, including, apparently, acts by Judge Jimmie M. Edwards and Attorney Brad Blake. "Leave to amend should be denied if the proposed amended pleading would be futile." *Wiles v. Capitol Indemnity Corp.*, 280 F.3d 868, 871 (8th Cir. 2002) (citing *Grandson v. Univ. of Minn.*, 272 F.3d 568, 575 (8th Cir.2001)). Allowing plaintiff to amend his complaint would be futile because the allegations in the amended complaint are "clearly baseless." *See infra*. Accordingly, the Court will deny plaintiff's motion to amend.

the Court will dismiss plaintiff's complaint because it finds plaintiff's allegations to be not merely unlikely but wholly incredible. *See Denton*, 504 U.S. at 33, 112 S.Ct. at 1734.

In accordance with the foregoing,

**IT IS HEREBY ORDERED** that plaintiff's motion for leave to proceed in forma pauperis [Doc. 1] be **GRANTED**. *See* 28 U.S.C. § 1915(a).

**IT IS FURTHER ORDERED** that the Clerk shall not issue process or cause process to issue upon the complaint because the complaint is legally frivolous or fails to state a claim upon which relief may be granted, or both. *See* 28 U.S.C. § 1915(e)(2)(B).

**IT IS FURTHER ORDERED** that plaintiff's motion to amend [Doc. 4] be **DENIED**.

An appropriate order shall accompany this order and memorandum.

Dated this 1st day of November, 2005.

**/s/ Jean C. Hamilton**  
**UNITED STATES DISTRICT JUDGE**